

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION JOINT APPROPRIATIONS SUBCOMMITTEE ON NATURAL RESOURCES AND COMMERCE

Call to Order: By **CHAIRMAN DICK HAINES**, on January 12, 2001 at
8:30 A.M., in Room 317-C Capitol.

ROLL CALL

Members Present:

Rep. Dick Haines, Chairman (R)
Sen. William Crismore, Vice Chairman (R)
Rep. Christine Kaufmann (D)
Sen. Linda Nelson (D)
Sen. Bill Tash (R)
Rep. Joe Tropila (D)

Members Excused: None.

Members Absent: None.

Staff Present: Gary Hamel, Legislative Branch
Amber Sauer, Committee Secretary
Doug Schmitz, OBPP

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: Department of Natural Resources
And Conservation, Forestry;
Supplemental Appropriation
(Wildfires), Oil and Gas
Conservation Division
Executive Action: Forestry Division, Oil and Gas
Conservation Division

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DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

FORESTRY DIVISION (continued)

Mr. Don Artley, Administrator of the Forestry Division, displayed newspaper articles of the fire season to remind the committee of the terrible fire season of 2000. He also spoke of the trip taken by some of the legislators on the interim committee on finance during the fires in the Bitterroot Valley.

Mr. Gary Hamel, LFD, stated the committee would continue with the Forestry Division. He spoke to Decision Package (DP) 14 - new proposal - Language Appropriation/HRA Bond. The executive is requesting \$10,000 each year of the biennium. **Mr. Hamel** stated the LFD issue is that if the legislature wants the department to have authority available to reduce slash hazards, it should be budgeted in HB 2 with the spending restricted.

Mr. Artley explained the bond money further as he had presented the previous day. They use the bond money to pay for such items as contracting with an equipment operator or salaries to seasonal employees. They have requested \$20,000 biennially for flexibility. **CHAIRMAN HAINES** asked if \$20,000 was sufficient.

Mr. Artley stated last fiscal year the expenditure was \$4,000; they believe \$20,000 will be enough.

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Motion/Vote: SEN. NELSON moved that DP-14 LANGUAGE APPROPRIATION/HRA BOND BE ADOPTED. Motion carried unanimously.

Mr. Hamel spoke to DP-15 which is the Forest Health Monitoring Program. This is to continue the program to control and prevent pathologic outbreaks in Montana forests. The pathologist looks for such problems as root diseases, blister rust resistant, dwarf mistletoe infestations, and other disease problems on state lands and on some private lands. **Mr. Artley** explained they do not have a full time pathologist on staff in either the Forestry or Trust Land Management Divisions. The 1999 session approved this as a one-time-only expenditure but they did not get the position in place as early as expected. They do still have federal money left to use since it was not used with the late start. They share a pathologist with Idaho and they would like to continue the contract with the young pathologist currently hired. When problems are found, steps can be taken for corrective treatment.

REP. TROPILA asked if the funding would end in two years and **Mr. Artley** responded they are very hopeful it would continue. The Forest Service does not commit to funds that far in advance.

Mr. Artley stated they are requesting spending authority only. No matching funds are necessary.

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Motion: REP. TROPILA moved that DP-15 FOREST HEALTH MONITORING PROGRAM BE ADOPTED.

Discussion: There was discussion about doing it as a one-time-only appropriation and if they were requesting \$78,000 for each year of the biennium. Mr. Artley stated they have no problem with the one-time-only.

Motion/Vote: REP. TROPILA moved that DP-15 FOREST HEALTH MONITORING PROGRAM SPENDING AUTHORITY ONE-TIME-ONLY RESTRICTED BE ADOPTED AS AMENDED. Motion carried unanimously.

Mr. Hamel spoke about the proprietary rate in the Forestry Division in the Air Operations Program which allows individuals who use aircraft to be billed for the costs. Fixed costs are paid by the general fund but variable costs such as fuel are billed to individuals. The LFD issue is that general fund is used for a portion of the fixed costs (72.2%) and the legislature may wish to adjust the rates so that fixed costs are also funded by those who use the aircraft.

Mr. Artley stated it is not a true proprietary account as it does not generate all the funds necessary to run the program. In the past fixed costs have been funded 2/3 through general fund and 1/3 through land owner assessments. The fees are set to cover the variable costs. By law they are restricted to using the aircraft for 90% fire related activities. He would prefer to keep the rates based on the variable costs so as not to price themselves out of business.

REP. TROPILA clarified the rates being raised are \$5 for fixed wing, \$10 for the Bell 206A Helicopter, and \$25 for the UH-1 Huey Helicopter which is about half the actual costs per hour.

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Motion/Vote: SEN. NELSON moved that PROPRIETARY RATE INCREASES AS STATED FOR AIRCRAFT BE ADOPTED. Motion carried unanimously.

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Fire Supplemental

Mr. Hamel stated information was distributed on the DNRC 2001 Estimated Fire Supplemental, a report on Cost Containment on

Large Fires, HB 3 Supplemental, and an amendment to HB 3 for use in the discussion on the 2000 wildfires.

EXHIBIT(jnh09a01), EXHIBIT(jnh09a02), EXHIBIT(jnh09a03), and EXHIBIT(jnh09a04)

Mr. Bud Clinch, Director, Department of Natural Resources and Conservation (DNRC), stated it was important to remember some of the PowerPoint presentation of the previous day. He reminded the committee of the map showing direct fire protection districts which demonstrated the DNRC's jurisdiction. They have agreements with the U. S. Forest Service (USFS) on protecting certain blocks of land. On the first day of fires around Helena, one started on each side of Canyon Ferry with one being DNRC's jurisdiction and the other being USFS. Mobilizing for the fires involved everyone and jurisdiction became intermingled in order to protect homes and property. Sorting out the fiscal impact was complex. There was one fire camp sharing facilities for both fires. **Mr. Clinch** continued explaining the complexity of the accounting and billing for costs incurred by each of the agencies mobilized. In the beginning, the DNRC and USFS agreed to split the costs 50-50.

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Mr. Clinch continued that as the USFS fire grew, the Federal Emergency Management Agency (FEMA) was brought in and declared the entire complex as a "FEMA declared emergency zone" which allows federal funds to pay for all qualified costs for the state and private parties. This played a significant role in decreasing costs for the State. **Mr. Clinch** stated in a normal year, the state pays the bill and sends in a claim at the end of the season to be reimbursed. However, in a year such as 2000 FEMA made a policy change and gave the State an advance of \$20,000,000. The entire process became an accounting nightmare. The DNRC responded to 469 fires with 30 being county assistance and over 200 responses to other agencies' fires. They actually had help from every state which compounds the accounting even more. The USFS is still determining the bill. He hoped the committee better understood why it is not possible to give exact cost figures of the wildfires at this time.

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Mr. Artley stated the mobilization of resources into Montana was the largest mobilization of firefighting resources in the history of the United States. This explains the complexity of determining the costs. The USFS serves as a clearinghouse for all billings for firefighting. The most apparent question is

where Montana will find the funds to pay the immediate bills such as payroll, equipment costs, and local costs. The only source the DNRC has available is its normal HB 2 general fund operating budget. The other possible sources would be the Governor's Emergency Fund (\$10,000,000 earmarked for fire), and FEMA.

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Mr. Artley then covered the costs on exhibit 1 in detail with discussion on possible other methods of funding fire costs. The bottom line figures were paid and anticipated obligations for the biennium (FY00 and FY01) amounted to \$62,263,829 with only \$4,048,986 being in FY00. The wildfires of 2001 cost roughly \$58,000,000. With the FEMA advances and the Governor's Emergency fund, \$25,800,000 was covered leaving a supplemental request of \$30,400,00 in HB 3 and \$17,000,000 in HB 17.

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The \$35,400,000 is broken down in \$6,048,000 in HB 17 and \$30,374,000 HB 3 Supplemental. With the USFS and FEMA aid and the amount recovered from other agencies, the net cost to the State of Montana is \$16,125,557. The remainder of the FEMA reimbursements will most likely not be received in this fiscal year nor will some of the monies recovered from other agencies. Therefore, the supplemental request will be for \$30,000,000. The DNRC is very concerned about the escalating costs in firefighting. Refer to exhibit 2.

REP. TROPILA wanted to go on record in support of a job well done by **Mr. Clinch** and **Mr. Artley** to have gone through the worst fire season on record without one life lost.

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Mr. Hamel gave a report on various alternatives to fund fire costs. This was for the committee to consider for future use. At the present time no specific funds are appropriated to the DNRC for fire suppression costs. The first alternative would be a regular appropriation in HB 2 based on a moving average of fire suppression costs and restrict the amount to that. The second would be to designate a portion of the emergency funds. This would be something less than the Governor's emergency declaration but more than in normal fire seasons. The third methodology would be to develop a wildfire mobilization fund such as a trust fund which could be allowed to grow while not being used. He gave a few examples of where the funds to develop the trust could be found.

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Mr. Hamel continued with an explanation of the supplemental requests for HB 3 with the amendment per exhibit 3 and 4. The request will be reduced from \$42 million to about \$30 million. No action was necessary to be taken by the committee; it was for information only.

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OIL AND GAS CONSERVATION DIVISION

The Oil and Gas Conservation Division is administratively attached to the DNRC. **Mr. Tom Richmond, Administrator, Oil & Gas Conservation Division (OGCD)**, gave the committee an overview of the agency.

EXHIBIT(jnh09a05) and **EXHIBIT(jnh09a06)** (a diskette)

Mr. Richmond stated the OGCD forms the staff for the Board of Oil and Gas which is a quasi-judicial board appointed by the governor for four-year terms. There are 7 members including industry members, landowner members, and public members. One must be a lawyer. He gave a breakdown of the current Board members. The primary mission of the Board is to conserve resources by encouraging the maximum ultimate recovery of oil and gas; to prevent physical waste of oil and gas and prevent economic waste; and to protect the correlative right of the owners of oil and gas.

Mr. Richmond went over the powers and duties of the Board, and discussed some of the jurisdictions of the Board. **CHAIRMAN HAINES** asked for clarification of a quasi-judicial board. **Mr. Richmond** replied it is a board that has rule-making authority whose decisions can be appealed to district court; however, with the lack of lawyers trained in oil and gas law in Montana, few decisions have been questioned.

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The primary funding sources are privilege and license tax, annual injection well fees, and U. S. EPA Operating Grant. There are several sources of secondary funding also. There are six offices located in Billings (headquarters), Helena, Shelby, Roundup, Plentywood, and Glendive. The Billings office also has a

warehouse and the field offices of Roundup, Plentywood, and Glendive are actually the homes of those Board members. The two program elements of the Board are the regulatory program and the underground injection control. **Mr. Richmond** continued that the current issues are increased level of activities, coal bed methane,

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e-commerce and public access to data, coal bed methane EIS (Environmental Impact Study) and BLM (Bureau of Land Management) and DEQ (Department of Environmental Quality), U. S. Dept. of Energy Coal Bed Methane GIS (Geographic Information Survey) project with ALL consulting in a database project, and RBDMS (Risk-Based Data Management System) e-commerce and web enabled GIS with GWPC (Groundwater Protection Council).

SEN. TASH asked about the confidentiality of well information. **Mr. Richmond** stated there is a six-month confidentiality period for a wildcat well. They ask operators not to send them the information until the six-month period is past; at the end of that time, it becomes public information. They do share information with NRIS in the DNRC.

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REP. KAUFMANN asked about the environmental impacts and the controversies. **Mr. Richmond** stated coal bed methane impacts water which causes some concerns about quality and loss of water. The concerns on the Rocky Mountain Front are emotional and not as much physical. **REP. KAUFMANN** asked if they are any impacts in regards to road building, waste water or leaks. **Mr. Richmond** stated those are all definite possibilities and there will be some of those. They would need to be dealt with.

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Mr. Richmond demonstrated the database program.

CHAIRMAN HAINES closed the hearing on the Oil and Gas Conservation Division.

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EXECUTIVE ACTION ON OIL AND GAS CONSERVATION DIVISION

Mr. Hamel spoke to DP-6 which is the operating adjustments. The LFD has three issues: 1) two field inspector positions have been

vacant since 1996 and the question is if they need to continue to be funded; 2) the coal methane EIS is to end in June of 2002 and therefore the appropriations could be one-time-only; 3) repairs to the air conditioning system should also be a one-time-only appropriation.

Mr. Artley stated they have cross-trained their staff but asked to keep the two field inspector positions open due to the fact this industry is such a secular one and the time will come when they need a more specialized inspector. They would not fill the positions unless absolutely necessary. There was further discussion on the elements of DP-6 for clarification.

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Motion/Vote: REP. TROPILA moved that DP-6 OPERATING ADJUSTMENTS ONE-TIME-ONLY BE ADOPTED. Motion carried unanimously. Crismore, Nelson, and Tash voted yes by proxy.

Mr. Hamel spoke to DP-10 personal services adjustment with which he had no issues.

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Motion/Vote: REP. KAUFMANN moved that DP-10 PERSONAL SERVICES ADJUSTMENT BE ADOPTED. Motion carried unanimously. Crismore, Nelson, and Tash voted yes by proxy.

Mr. Hamel asked the committee to consider the language recommendations.

{Tape : 4; Side : A; Approx. Time Counter : 290}

Motion/Vote: REP. TROPILA moved that LANGUAGE "THE DEPARTMENT IS AUTHORIZED TO DECREASE STATE SPECIAL REVENUE IN THE UNDERGROUND INJECTION CONTROL PROGRAM AND INCREASE FEDERAL SPECIAL REVENUE BY A LIKE AMOUNT WHEN THE AMOUNT OF FEDERAL EPA FUNDS AVAILABLE FOR THE PROGRAM BECOMES KNOWN. ANY FEDERAL SPECIAL REVENUE FUNDS ARE TO BE SPENT BEFORE STATE SPECIAL REVENUE FUNDS" BE ADOPTED. Motion carried unanimously. Crismore, Nelson, and Tash voted yes by proxy.

CHAIRMAN HAINES adjourned the meeting.

ADJOURNMENT

Adjournment: 11:45 P.M.

REP. DICK HAINES, Chairman

SANDRA WHITAKER, Editing Secretary

DH/AS/SW

EXHIBIT (jnh09aad)